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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/573,509

03/27/2006

Gwendal Simon

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EXAMINER

ZEWDU, MELESS NMN

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

06/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/573,509	Applicant(s) SIMON ET AL.	
	Examiner Meless N. Zewdu	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 and 12-17 is/are allowed.
- 6) ☒ Claim(s) 11 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is in response to the communication filed on 3/26/09.
2. Claims 1-20 are pending in this action.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the means of identifying wireless entities, the means of identifying a minimum constellation, the means of adjusting a transmitting power, recited in claims 9 and 10; and must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 1 objected to because of the following informalities: on line 3, change "the entities" into --- entities ---. Appropriate correction is required.

Claim 1 is objected to because of the following informalities: on line 7, change "the smallest set" into --- a smallest set ---. Appropriate correction is required.

Claim 1 is objected to because of the following informalities: on line 9, change "said set" into --- said smallest set ---. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: 5, change "the messages" into --- messages ---. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: 7, change "the smallest set" into --- a smallest set ---. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: on line 10, change "the a" into --- a ---. Appropriate correction is required.

Claim 10 is objected to because of the following informalities: on line 7, change "the smallest" into --- a smallest ---. Appropriate correction is required.

Claim 10 is objected to because of the following informalities: on line 10, change “the transmitting power” into --- a transmitting power ---. Appropriate correction is required.

Claim 10 is objected to because of the following informalities: on line 9, change “entity and” into --- entity; and ---. Appropriate correction is required.

Claim 11 is objected to because of the following informalities: on line 3, change “the a sending” into --- a sending ---. Appropriate correction is required.

Claim 11 is objected to because of the following informalities: on line 9, change “the smallest” into --- a smallest ---. Appropriate correction is required.

Claim 3 is objected to because of the following informalities: on lines 6 and 7, “adjacent entity” should be --- sending entity ---. Appropriate correction is required.

Claim 6 is objected to because of the following informalities: on line 3, change “a minimum constellation” into --- the minimum constellation ---. Appropriate correction is required.

Claim 8 is objected to because of the following informalities: on line 4, cancel the word “is”. Appropriate correction is required.

Claims 15 and 18 are objected to because of the following informalities: on lines 4, change “a minimum constellation” into --- the minimum constellation ---. Appropriate correction is required.

Claim 15 is objected to because of the following informalities: on line 5, change “said unit” into --- said communication unit ---. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11 and 18-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Said claims recite-- a computer program that is not embedded in a computer readable medium thereby lacking tangibility and became non-statutory. Claims 1-8 and 12-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In this case these method/process claims recite steps of a mental process wherein one of ordinary skill in the art would not know what performs those steps. As required by recent directives (see the May 15 memorandum issued by Love John j, Deputy Commissioner for Patents), such a method/process claim must be tied to another statutory subject matter (e.g., apparatus or system) or must transform an underlying subject matter into another to qualify as a statutory subject matter under 35 U.S.C. 101.

Allowable Subject Matter

Claims 1-10 and 12-17 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art of record does not explicitly teach about a processor identifying, among the adjacent entities, a minimum constellation associated with the sending entity, as the smallest set

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of entities adjacent to the sending entity and included in a circle centered on the sending entity such that at least three of the entities of said set form a convex polygon circumscribing the sending entity. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance." Note: the indicated allowance is based on the assumption that applicant addresses or effectively argues the claim and drawing objections indicated above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meless N. Zewdu whose telephone number is (571) 272-7873. The examiner can normally be reached on 8:30 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bost Dwayne D can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

/Meless N Zewdu/
Primary Examiner, Art Unit 2617
6/1/2009

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